

Mail Stop Interference
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Filed: 25 April 2006

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

CLAUDIO DE SIMONE
Junior Party
(Application 10/174,779),

v.

RENATA MARIA ANNA CAVALIERE VESELY
and **CLAUDIO DE SIMONE**
Senior Party
(Application 09/796,432).

Patent Interference No. 105,412
(Technology Center 1600)

1 Before Lee, Torczon, and Lane, Administrative Patent Judges.

2
3 Lane, Administrative Patent Judge.

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5 **Judgment - Request for Adverse - Bd.R. 127(b)**

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7 De Simone has filed two papers, one entitled "VESELY SUBSTANTIVE
8 MOTION 1" (Paper 6) and one entitled "DESIMONE SUBSTANTIVE MOTION 1."
9 (Paper 7).

10 In each paper, De Simone states that VSL Pharmaceuticals, Inc. (VSL) is the
11 current assignee of both the involved Vesely and the involved De Simone applications.
12 De Simone has submitted what is said to be an executed copy and an English
13 translation of the assignment of rights in the Vesely involved application to VSL. De

1 Simone points out where assignments of rights in the De Simone application to VSL are
2 said to have been recorded in the USPTO.

3 De Simone further “states that the sole inventor, Claudio DESIMONE is the first
4 inventor of the subject matter of Counts 1-34” and that “priority resides in junior party,
5 DESIMONE...” (Paper 6 and 7 at 2).

6 We understand the papers submitted by De Simone to be a request by VSL, who
7 appears to be the real party in interest for both De Simone and Vesely, for judgment
8 adverse to Vesely on the basis that De Simone has been determined to be the first
9 inventor of the subject matter of the counts. See Bd.R. 206.

10 Upon consideration of the record and for reasons given, it is

11 ORDERED that judgment on priority as to Counts 1-34, the only counts of
12 the interference, is awarded against senior party RENATA MARIA ANNA CAVALIERE
13 VESELY and CLAUDIO DE SIMONE;

14 FURTHER ORDERED that senior party RENATA MARIA ANNA
15 CAVALIERE VESELY and CLAUDIO DE SIMONE is not entitled to a patent containing
16 claims 37-70¹ of application 09/796,432, which claims correspond to Counts 1-34
17 respectively, the only counts of the interference;

18 FURTHER ORDERED that, if there is a settlement agreement, the parties
19 are directed to 35 USC 135(c) and Bd.R. 205;

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¹ The claims appear to have been renumbered by the examiner for purposes of issuing the application. However, for the purposes of the interference, the original numbering, i.e., 37 through 70, has been maintained.

1 FURTHER ORDERED that a copy of this judgment shall be entered into
2 the administrative records of De Simone's 10/174,779 application and Vesely's
3 09/796,432 application.
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5

6 /Jameson Lee/)
7 JAMESON LEE)
8 Administrative Patent Judge)
9)

10 /Richard Torczon/) BOARD OF PATENT
11 RICHARD TORCZON) APPEALS AND
12 Administrative Patent Judge) INTERFERENCES
13)

14 /Sally Gardner Lane/)
15 SALLY GARDNER LANE)
16 Administrative Patent Judge)
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